

# KRIEG · DEVAULT <sup>LLP</sup>

## ATTORNEYS AT LAW

**RECEIVED**  
**CENTRAL FAX CENTER**  
**MAR 09 2005**

### FAX COVER PAGE

DATE: March 9, 2005

PAGES INCLUDING THIS PAGE: 13

TO: United States Patent and Trademark Office  
 COMPANY:

FAX NUMBER: (703) 872-9306  
 PHONE NUMBER:

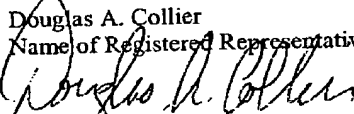
FROM: Douglas A. Collier

DIRECT DIAL: (317) 238-6333  
 FAX NUMBER: (317) 636-1507

RE: Office Action Response for 10/790.329, Attorney Docket No. 4002-3486/PC746.02

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 703-872-9306 on:

March 9, 2005  
 (Date of Transmission)

Douglas A. Collier  
 Name of Registered Representative  
  
 Signature

Hard copy will be sent via: ☐ Regular Mail☐ Overnight Courier☒ Fax Communication Only

Name of Sender: J. Kurts

Client Matter No.: MSDI-22

#### WARNING CONFIDENTIALITY NOTICE

The documents constituting this fax transmittal contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual(s) or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance upon the content of this fax transmittal is strictly prohibited. If you have received this fax transmittal in error, please immediately notify us by telephone at the number below to arrange for return of the original documents to us. Thank you.

For Questions or Problems in Transmission, Please Contact our Fax Operators

KRIEG DEVAULT LLP  
 ONE INDIANA SQUARE  
 SUITE 2800  
 INDIANAPOLIS, IN 46204  
 TELEPHONE-(317) 636-4341  
 FAX-(317) 636-1507

KRIEG DEVAULT LLP  
 12800 N MERIDIAN STREET  
 SUITE 300  
 CARMEL, IN 46032  
 TELEPHONE-(317) 566-1110  
 FAX-(317) 636-1507

KRIEG DEVAULT GALVIN  
 LLP  
 5231 HOHMAN STREET  
 HAMMOND, IN 46320  
 TELEPHONE-(219) 933-0380  
 FAX-(219) 933-0471

KRIEG DEVAULT LUNDY  
 LLP  
 825 ANTHONY WAYNE  
 BUILDING  
 203 EAST BERRY STREET  
 FT. WAYNE, IN 46802  
 TELEPHONE-(260) 422-1534  
 FAX-(260) 423-1590

IM-595596\_1.DOC

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/790,329	
	Filing Date	March 1, 2004	
	First Named Inventor	Kevin T. Foley	
	Art Unit	3738	
	Examiner Name	Thomas Sweet	
Total Number of Pages in This Submission	12	Attorney Docket Number	4002-3486/PC746.02

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks _____		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Krieg DeVault LLP		
Signature	<i>Douglas A. Collier</i>		
Printed name	Douglas A. Collier		
Date	March 9, 2005	Reg. No.	43,556

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	<i>Douglas A. Collier</i>		
Typed or printed name	Douglas A. Collier	Date	March 9, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**RECEIVED**  
**CENTRAL FAX CENTER**

003

**MAR 09 2005****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re patent  
application of:

Kevin T. Foley

Serial No. 10/790,329

Filed: March 1, 2004

SYSTEMS AND METHODS FOR  
RESTORING AND MAINTAINING  
INTERVERTEBRAL ANATOMY

Before the Examiner

Thomas Sweet

Group Art Unit 3738

Atty Docket No. 4002-3486/PC746.02

March 9, 2005

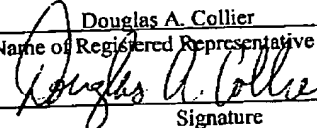
**RESPONSE TO NON-FINAL OFFICE ACTION**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action mailed December 9, 2004, please consider the following. Please provide any extensions of times that may be necessary and charge any fees due to Deposit Account 12-2424, but not including the payment of issue fees.

I hereby certify that this correspondence is  
being facsimile transmitted to the United States  
Patent and Trademark Office at 703-872-9306  
on:

March 9, 2005  
(Date of Transmission)

Douglas A. Collier  
Name of Registered Representative  
  
Signature

March 9, 2005  
Date of Signature

Response to Office Action  
Ser. No. 10/790,329  
Atty Docket No. 4002-3486/PC746.02  
Page 1 of 11